

Jesse Merrithew, OSB No. 074564
Email: jesse@lmhlegal.com
Viktorija Safarian, OSB No. 175487
Email: viktorija@lmhlegal.com
Levi Merrithew Horst PC
610 SW Alder Street, Suite 415
Portland, Oregon 97205
Telephone: (971) 229-1241
Facsimile: (971) 544-7092

Juan C. Chavez, OSB No. 136428
Email: jchavez@ojrc.info
Franz Bruggemeier, OSB No. 154030
Email: FBruggemeier@ojrc.info
Alex Meggitt, OSB No. 174131
Email: ameggitt@ojrc.info
Oregon Justice Resource Center
PO Box 5248
Portland, OR 97208
Telephone: 503 944-2270
Facsimile: 971-275-1839

J. Ashlee Albies, OSB No. 051846
Email: ashlee@albiesstark.com
Whitney B. Stark, OSB No. 090350
Email: whitney@albiesstark.com
Maya Rinta, OSB No. 195058
Email: maya@albiesstark.com
Albies & Stark LLC
1 SW Columbia St. Suite 1850
Portland, Oregon 97204
Telephone: (503) 308-4770
Facsimile: (503) 427-9292

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal corporation,

Defendant.

Case No. 3:20-cv-00917-HZ

DECLARATION OF NICHOLAS J. ROBERTS
IN SUPPORT OF PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION

I, Nicholas J. Roberts, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein.
2. I am one of the named-Plaintiffs, and proposed class representatives in this case. I make this declaration in support of Plaintiffs' motion for class certification.
3. I have been informed of the responsibilities of a class representative.

4. In general terms, I understand the claims in the case.
5. I attended protests between May and August 2020 in support of the Black Lives Matter movement.
6. I am concerned about the City's pattern and practice of harming police accountability protesters.
7. I am able and willing to serve as a class representative.
8. If appointed, I will stay informed and actively participate in the case. I will keep in contact with my lawyers. I will put the interests of the class first.
9. I grew up in the Portland-Metro area.
10. During these protests, I never threw anything at police, I did not light any fires, I did not destroy or damage any property. I did not engage in anything beyond passive resistance.
11. On Friday, May 29, 2020, I was at home when I received a text message from a friend around midnight informing me that a protest about police brutality was going on downtown. I decided to see if I could be of assistance because I have some general (nonprofessional) experience in being a first responder. It was important to me to support others and take a stand in opposition to the American policing system, which I believe was designed and has operated to oppress Black people.
12. It was a chaotic scene, and I joined a group of protestors in front of a line of police officers with their hands up, peacefully protesting. I witnessed the PPB escalate the situation, using tear gas against the crowd. It was my first time ever experiencing tear gas and I was terrified; it was debilitating, blurring my vision and causing substantial pain and coughing, and I and others were trapped between officers and tear gas, unable to see or find a way out of the area. As the crowd was attempting to disperse, I saw police with their back to me, shooting 40mm at protestors who were running away, hitting people a number of times in the back.

13. On May 30, similar to the night before, I attended a protest at Chapman square. Even though I was afraid, to allow police violence to continue unwitnessed and unchallenged would continue the pattern of police violence against Black people. Speakers spoke out against about police brutality, and I was peacefully protesting with a large crowd in Chapman square, when again PPB attacked the crowd with tear gas. I helped carry a person who was having trouble walking as they tried to escape tear gas. I then regrouped with other protestors, who were checking on and providing aid to each other. I believe PPB also used RBDDs against protestors as well, and I remember them throwing them at my feet. The RBDDs are incredibly impactful, producing a booming and rattling physical sensation I could feel in my entire body.

14. On June 2, I attended a protest at Revolution Hall. While walking home later that night over the Burnside Bridge, I heard loud bangs and police sirens coming from Pioneer Square. I went closer to see if I could help anyone. When I got there, I saw a Black man with his hands up in front of a line of police, peacefully and verbally protesting. I joined him, and the police began pushing us and other protestors forcefully off the square with their batons, and throwing me to the ground. PPB also deployed tear gas that night and used RBDDs to try to clear the area. In addition, as I was at most engaging in passive resistance PPB hit me with what felt like a spray of shrapnel, likely from an RBDDs. I took a video that night, which documents PPB deploying approximately 15 RBDDs over the course of 15 minutes.

15. On June 5, I attended another protest at Chapman square. PPB gave a dispersal order over the loudspeaker, and I and others continued to passively resist by remaining in the square. PPB again deployed tear gas against the crowd, and after helping people who were injured by the tear gas, I returned to the square to continue my peaceful protest of police violence. Similarly, on June 7 and 26, I was met again with RBDDs and tear gas for engaging in passive resistance and peaceful protest.

16. On July 3rd, I again returned to Chapman square to peacefully protest the ongoing police violence. PPB again deployed tear gas, RBDDs, rubber bullets and smoke grenades. I was pushed into the streetcar near Pioneer square when officers charged at the crowd. Two people were pushed onto the ground. When I reached down to help them get up, a PPB officer shot me with a rubber bullet twice in the leg from about 10 feet away. This cause substantial pain in my leg and it became stiff. I continued to try to help people get out of the street. As I was doing that, PPB launched another flash grenade at me; it bounced at my feet and exploded a few feet way. It created a terrible sensation that rattled my chest and felt like my head was splitting apart. Officers again then used tear gas again. As I was reaching down towards a tear gas cannister to throw it away from protestors and away from the police, PPB shot me in the hand with rubber bullets.

17. On July 23, while I was peacefully protesting, PPB again deployed tear gas and RBDDs at Chapman Square from behind a fence. While I was moving west towards SW Main Street, PPB shot me with FN303s, striking me in the chest and head. I was fortunately wearing a helmet, and it left a residue chalky mark, but my chest was sensitive to the touch for several days. Likewise, on July 24, I peacefully protested at Chapman Square and Lownsdale Square, when PPB used tear gas multiple times.

18. On August 21, I was peacefully protesting at Irving Park, between 6 and 8 pm. The crowd had marched up to North Precinct and PPB again deployed tear gas at the crowd after a dispersal announcement. The police then followed us into the nearby residential neighborhood, firing more tear gas and bull rushing the crowd with shoves and batons. At one point, I had my arms around an older woman, trying to keep her from being knocked over by the police rushing the crowd. I was at back of line with people who were unable to run. After this, I walked back to the precinct to continue my peaceful protest against the ongoing police violence and was met

again with tear gas.

19. On or about August 22, the Proud boys held a counter demonstration against the Black Lives Matter movement in Portland in Lownsdale Park. The Proud Boys supporters were aiming guns and weapons at the Black Lives Matter demonstrators, with PPB just standing by. After the Proud Boys supporters left, PPB moved Black Lives Matter demonstrators out of the park. As protestors were going back towards Justice Center, PPB began firing FN303s in the trees above the protestors, raining down pepper balls on people. I was struck on the back of the arm by a munition, which left a sizable bruise. I also protested again at North Precinct on the corner of MLK and NE Emerson St. PPB again deployed tear gas and rushed the crowd with baton shoves and were shoving people with their large plastic shields while people were scrambling from the tear gas. I was startled to be attacked while in a cloud of gas.

20. On August 28, 2020, I again ventured out to peacefully protest against police violence. This time, however, I stood a bit back, because thought police would push and gas people again, and I could be in a better position to help people when that happened. Despite being further away, I was still impacted when PPB deployed tear gas that night. I was able to handout water to people impacted.

21. I attended several other protests, with largely the same experience of tear gas, RBDDs, and impact munitions.

22. I estimate there are tens of thousands of people in the First Amendment class, based on my experience going to the protests.

23. While I think it is incredibly important to speak out and protest police violence, the PPB's response to our protests was terrifying. I still think about these protests, and it has impacted my mental health, and I am still fearful of protesting and large crowds. I was impacted by watching livestreams of the protests after I stopped attending, because I remembered the fear of being

there. Witnessing all this violence has negatively impacted my ability to protest and exercise my First Amendment rights.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 01 / 12 / 2022

Nick Roberts

Nicholas J. Roberts